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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 1835 of 2005

PETITIONER : Dhannu Naik, aged about 32 years, son of Shri Madhu Naik, by occupation – service, r/o Railway Colony, Pendra Road, District Bilaspur.

VERSUS

RESPONDENTS :
1. State of Madhya Pradesh through the Secretary, Ministry of Education, Vallabh Bhawan, Bhopal.
2. The Commissioner, Higher Education, Satpura Bhawan, Bhopal.
3. The Additional Director Directorate of Higher Education, Satpura Bhawan, Bhopal.
4. The Additional Director, Higher Education, Regional Office, Bilaspur.
5. The Principal, Government Girls College, Pendra Road, District Bilaspur.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri.

Present: Shri Parag Kotecha, Advocate for the petitioner.
Smt. Anju Ahuja, Dy. Govt. Advocate for the State.

ORDER

(Passed on 13th day of June, 2007)

1. The petitioner was appointed as Book Lifter vide order dated 09.10.1996 (Annexure A/2) passed by the respondent no. 5 on temporary basis. The appointment of the petitioner was not in accordance with the constitutional scheme of employment as no publication of vacancy, inviting eligible candidates was made. The petitioner has also not gone through the selection process for appointment. Thus, the appointment of the petitioner is non-est in the eye of law.

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2. After appointment, the petitioner has worked for sometime. The petitioner's appointment came to an end vide order dated 22.02.1999 as the appointment of the petitioner which was dehors the constitutional scheme of employment, was not approved by the Commissioner, Higher Education. According to the learned counsel for the petitioner, the post of Book Lifter is still available even today.

3. The petitioner has sought for relief in this petition seeking a writ in the nature of certiorari to quash the order dated 22.02.1999.

4. Be that as it may, admittedly, the appointment of the petitioner was on temporary basis without following due procedures of law, contrary to the constitutional scheme of employment. Thus, the petitioner has no right to the post. The impugned order dated 22.02.1999 was passed on the ground that the appointment was not approved by the Commissioner, Higher Education.

5. In view of the settled position of law, daily rated, temporary or ad hoc or contract appointees have no right to the post as their appointment was not in accordance with the constitutional scheme of the employment and not in accordance with any Rules, Regulations as framed under the proviso to Article 309 of the Constitution of India.

6. In view of the foregoing, the petition is dismissed, summarily.

Sd/-
Satish K. Agnihotri
Judge

Amit